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we believe that the original text, by reason of its attractive style, its comprehensive scope, and its independence, is one of the best of the larger treatises on the subject. But while we cheerfully concede this, we are obliged to differ with the learned author as to his treatment of a number of subjects, and to express the opinion that in the course of several editions, and particularly in the last edition, the original text and notes have been overlaid with matter, often injudiciously selected, and so carelessly arranged that the total result is not satisfactory. The conviction deepens that the time had come for a reconstruction of the work.

We should be sorry to do injustice to any legal writer, but we consider it the duty of a law review to encourage the making of first-class text-books. This end can never be attained by such indiscriminate praise as characterizes many of the reviews in law magazines. Nor can we agree that it is a defense to a criticism of a law book to say that it is up to the average. We think it has been shown that the work on the present edition is not up to the standard of fairly good books. But however this may be, we submit that it is the right and the duty of the profession to judge a book by the standard of the best type of law books, whether the best happen to relate to the particular subject or to other subjects. And not only the text, but the notes, and the judgment shown in the citing and arrangement of cases should be considered in determining the grade of the book.

J. D. B.

FOREIGN INVESTMENTS IN TIME OF WAR.—A question on which there is little authority, but which will undoubtedly be of the utmost importance in the future, is the effect of war on international business relations. A very learned and valuable discussion of some phases of this question is contained in a recent article. *Foreign Investments in Time of War*, by Robert Agar Chadwick, 20 L. Quart. Rev. 167 (April, 1904). After dealing very cursorily with the right to confiscate, the writer devotes some attention to a discussion of the effect of war on foreign loans, with particular reference to debentures. The second part of the article, however, which is taken up with a consideration of the legal position of the foreign shareholder of a corporation in time of war, is of more interest to the American reader. On this question he has found but two views expressed. One writer maintains that the rights and liabilities of the shareholders are suspended during the war. 1 LINDLEY ON COMPANIES (6th ed.) 53. Another writer has argued that enemy shareholders drop out and are entitled to the value of their shares on the day war breaks out. BATY, INTERNATIONAL LAW IN SOUTH AFRICA, ch. VI. The chief analogy is to the case of partnership. A partnership is dissolved by the outbreak of hostilities, since the power of mutual control is gone, and since a person should not reap the benefit of his partner's trade in the enemy's country: suspension is impossible since it is impossible for the partners to pick up the threads of the business where they were abandoned. *Griswold v. Waddington*, 16 Johns. (N. Y.) 438. Since the control of a shareholder is slight and seldom exercised by foreigners, and since his liability is limited and he can in addition generally sell even during the war, the writer argues that the first of the reasons given for dissolution of partnership is inapplicable. The inconvenience arising from holding the membership dissolved would be greater, he says, than the hypothetical injustice of continuing his liability in the company over which he cannot exercise the small control given him. The other reasons given for dissolution of partnerships do not apply to corporations, since the rights and liabilities of a shareholder can be suspended. The directors can carry on the business in the interim and profits earned during the war may be withheld.

The writer, however, takes one step more. He contends that the rights and liabilities of the shareholder need not be suspended during the war, though his right to sue must be. The law allows interest to be paid on a loan even to the alien government and also rent for the use of foreign land. From this he argues that it is not positively illegal to share in the profits of trade carried on in the enemy's country. The shareholder, if he remains one, must hold the

share at its value at the end of the war, whether decreased or increased. Here at least he may to a limited extent share in profits. In addition he would as a practical matter have to pay any call assessed after the end of the war, because of the impossibility of showing it resulted from losses incurred during the war. So unless he is given full rights to profits made during the war, he would be subjected to all the risk of loss with a chance for only a small share of the profit. Consequently the writer maintains that, generally speaking, shareholders should remain shareholders in fact, entitled to profits earned as well as liable for losses incurred during hostilities. This argument, it is submitted, strikes at one of the fundamental reasons for the dissolution of partnerships. If it is not illegal to share in profits of trade in the enemy's country, then the only reason for the dissolution of partnerships is that the power of mutual control is gone. In many partnerships this power does not exist. It seems, however, that the writer's views are in accordance with the modern tendency to minimize the effect of war on commercial relations and, though he has taken a long step, it is quite possible that the courts will follow him.

LIFE, BIRTH, AND LIVE-BIRTH.—Few attempts have been made by legal writers to deal with this subject, either as an original question, or in the light of the decided cases. The propositions of law involved seem to be, for the most part, in an unsettled state, and a cursory examination of the authorities affords the reader little enlightenment. Such a comprehensive treatment of these questions as appears in a recent article is, therefore, both timely and noteworthy. *Life, Birth, and Live-birth*, by Stanley B. Atkinson, 20 L. Quart. Rev. 134 (April, 1904). The writer displays a wide knowledge of these topics, not only in their legal, but also in their physiological aspects, his treatment of them being scholarly and exhaustive, and supplemented by a careful collection of the English authorities. The subject is dealt with in five of its important phases. I. A Child. In the criminal law the stage of development at which a foetus becomes a child is important. For example, it is only after this stage of pregnancy that execution will be stayed in the case of a sentenced murderess. Again, a definition of a child is necessary under statutes dealing with the concealment of the birth of children. The definition suggested is that a child is a human foetus which is born, alive or dead, at such stage of uterine development as experience shows is necessary for capacity to survive birth, namely, at least five calendar months after conception. II. Birth. It is well settled that the instant of nativity is when the last part of the body of the foetus is wholly extruded from the body of the mother. The after-birth, which is not legally considered as an integral part of the child, need not be expelled nor the cord be severed. III. Live-birth. The child begins its existence as a legal personality when the foetus is born alive into the world. Up to this time it is not a subject of murder; consequently a fixed test of the consummation of live-birth is of great practical importance in the cases of infanticide that so often arise. The common judicial view is that the child must have a postnatal separate and independent existence. What physiological facts are sufficient to constitute this independent vitality is not determined by the cases. It would seem that at least a postnatal continuance of the circulation must occur, although in practice still-birth, which may be accompanied by continuance of the circulation, is generally regarded as dead-birth, and respiration is taken as the rough test of live-birth. IV. The Proof. The presumption of the law is that a child is born dead. Live-birth must be established by valid evidence. Circumstantial evidence, as to the condition of the body for example, is usually sufficient where the child has lived long enough for respiration to become fully established. Where this is not the case, however, live-birth can ordinarily be efficiently proved only by the direct evidence of one present at the parturition as to the birth and the subsequent exhibition of a sign of life. V. The Status of the Foetus *en ventre sa mère*. The foetus acquires a status in civil law much earlier than its legal personality is recognized in criminal law. For proprietary rights the foetus is considered as a potential child at every stage of gestation.